

Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL).

July 27, 2000

Dear Xxxxx:

This letter is in response to your letter dated April 22, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's Web site at www.revenue.state.il.us/legalinformation/regs/part1200.

In your letter, you have stated and made inquiry as follows:

Issue: Illinois Sales Tax not being paid or reported by a segment of industry in the State.

Background: The repair of collision damaged vehicles and the associated materials and parts consumed is a multi-billion dollar industry in the United States. Some long standing practices of both collision repair shops, and property damage insurers, have avoided taxation on large amounts of material used in the restoration of damaged vehicles.

It is an accepted practice among a majority of collision repair shops to use the estimate written by an insurer as the 'estimate of record'. These estimates sometimes contain what are called materials 'caps' which set the total reimbursement for materials at a pre-set level. Although this practice is in violation of Illinois Insurance Code, it continues on a daily basis with many companies. On major repairs this cap can be many hundreds of dollars lower than the actual amount used in the repair. My own business has recently asked for an investigation by the Director of Insurance and has been given a file number of #####. The documentation provided the Department of Insurance contains an example of a typical 'cap' of materials.

The result of this practice is that deficient amounts of sales tax are being collected by the State of Illinois. As I do not know the actual number of vehicles repaired in Illinois, I can only speculate on the amounts not being collected on these materials, but I have reason to believe it exceeds over one million dollars (\$1,000,000.00) per annum.

Thank you for any consideration of this subject,

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I have referred your inquiry to the Department's Audit Bureau.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk

cc: Stu Vost

Enc.